

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-110001-20
Date:
August 07, 2020

LEGEND

X =

State =

Date =

Dear :

This letter responds to a letter dated April 16, 2020, and subsequent correspondence, submitted on behalf of X, requesting relief to file a late S corporation election under § 1362(b)(5) of the Internal Revenue Code ("Code").

FACTS

The information submitted states that X was formed as a limited liability company on Date under the laws of State and timely filed an entity classification election to be classified as an association taxable as a corporation for federal tax purposes. X represents that it always intended to be treated as an S corporation for federal tax purposes beginning on Date. However, X represents that it failed to properly and timely file Form 2553, Election by a Small Business Corporation, effective for Date. X further represents that it and its sole shareholder have always filed their federal tax returns consistent with X's treatment as an S corporation.

LAW AND ANALYSIS

Section 1362(a) provides that a small business corporation may elect to be an S corporation.

Section 1362(b) provides the rule on when an S election will be effective. Section 1362(b)(1) provides in relevant part that if an S election is made within the first two and one-half months of a corporation's taxable year, then the corporation will be treated as an S corporation for the year in which the election is made. Under § 1362(b)(3), however, if an S election is made after the first two and one-half months of a corporation's taxable year, then that corporation will not be treated as an S corporation until the taxable year after the year in which the S election is filed.

Section 1362(b)(5) provides that if: (A) an election under § 1362(a) is made for any taxable year after the date prescribed by § 1362(b) for making such election for such taxable year or no such election is made for any taxable year, and (B) the Secretary determines that there was reasonable cause for the failure to timely make such election, then the Secretary may treat such an election as timely made for such taxable year.

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation effective Date. Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 effective Date, along with a copy of this letter, with the appropriate service center within 120 days from the date of this letter, then such election will be treated as timely made for Date.

Except as expressly provided herein, we express or imply no opinion concerning the federal income tax consequences of the facts described above under any other provision of the Code, including whether X qualifies as a small business corporation under § 1361(b) of the Code.

The ruling contained in this letter is based on information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, we are sending copies of this letter to your authorized representatives.

Sincerely,

Adrienne M. Mikolashek
Branch Chief, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes

cc: